REMARKS

This paper responds to the Office Action mailed on February 21, 2008.

Claims 1, 3, 13, 15, 23, and 25 are amended, no claims are canceled, and claims 39-41 are added; as a result, claims 1-7, 9-19, 21-29, 31-36, and 39-41 are now pending in this application.

Applicant informs the USPTO that a paper in a related application has published as WO 2007/061975 A3.

§112 Rejection of the Claims

Claims 1, 13 and 23 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicant respectfully traverses.

The Office Action indicates that the feature "searching a database of listing data using the listing identification data to locate a plurality of similar listings posted within a network-based commerce system" fails to comply with the written description requirement. However, claim 8, now canceled, recited in part *"searching a database of reference listing data to locate* at least one *similar listing"* (italics represent identical words found in the above quote from the Office Action. Accordingly, it appears that the Office Action does not find support for "a plurality of" or "posted within a network-based commerce system."

The phrase "a plurality of" as it related to similar listings is shown, for example in FIG. 9 and para. 0053, which discloses " If, however, the network-based commerce system 10 locates multiple vehicles associated with the VIN, the method 140 generates a user interface in the form of a web page 160 (see FIG. 9) that identifies all the vehicles found in the VIN catalogue associated with the VIN." Thus there is support for returning a plurality of similar listings.

The phrase "network-based commerce system" is described, for example, in claim 13 as filed, paras. 0033, 0035, and 0036, and FIG. 2. Para. 0035 states

> The database 40 (see FIG. 2) includes a user table 42 that contains
> a record for each user of the network-based commerce system 10.
> A user may operate as a seller, a buyer, or both, when utilizing the
> network-based commerce system 10. The database 40 also
> includes listings tables 44 that may be linked to the user table 42.
> The listings tables 44 may include a seller listings table 46 and a
> bidder listings table 48.

Para. 0036 explicitly states "In addition or instead, an alphanumeric search mechanism may be provided by the search servers 20 to allow a user to search for specific listings using search terms or phrases." There is additional disclosure in the application to support "network-based commerce system." Accordingly, "network-based commerce system" is adequately described in the application.

The above may not be all of the places where the present application provides written description of "feature "searching a database of listing data using the listing identification data to locate a plurality of similar listings posted within a network-based commerce system."

Based at least on the above, the specification would provide a written description to one of skill in the art upon reading the specification as a whole, including the portions quoted above and the remainder of the application. Reconsideration and withdrawal of this rejection are requested.

§103 Rejection of the Claims

Claims 1-4, 7, 9, 13-16, 19, 21, 23-26, 29, 31, 35 and 37-38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Boyden et al. (U.S. Publication No. US2003/0036964 A1, hereinafter "Boyden") in view of Bowman-Amuah (U.S. Patent No. 6,697,824, hereinafter "Bowman"). Applicant respectfully traverses.

Applicants respectfully submit that the Office Action did not make out a *prima facie* case of obviousness in connection with any of the above rejections because even if combined, the cited references fail to teach or suggest all of the elements of Applicant's claimed invention. The references when combined must teach or suggest all the claim elements. M.P.E.P. § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)).

Claim 1 as amended recited in part "searching a database of listing data using the listing identification data to locate *a plurality of similar listings* posted within a network-based commerce system; receiving an indication from the seller selecting a *selected listing from the plurality of similar listings*; generating a proposed listing to present to the seller, *the proposed listing including listing data from the selected similar listing*; allowing the seller to modify the listing data of the proposed listing to create a listing; and posting the listing in a database of the network-based commerce system, the listing, once posted, representing an offering of the good

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or service *for sale*" (emphasis added). Applicant can not find these features in Boyden. Further the Office Action admits that Boyden does not explicitly teach the claimed limitation "a plurality of similar listings; from the plurality of similar listings; from the selected similar listing." Office Action Page 9.

The Office Action (page 9) relies on Bowman as follows:

> Bowman teaches searching for items similar to the product over a network. Items found during the search similar to the product over a network. Selection of the product and the items similar to the product is allowed for purchase over the network (col. 30, lines 35-45).

> It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to apply Bowman's teaching of searching for items similar to the product over a network. Items found during the search similar to the product over a network. Selection of the product and the items similar to the product is allowed for purchase over the network to Boyden's system in order to allow a user select a particular similar item listing so that the service can retrieve another similar item lists based on the selected similar list and further to predict the interests of users based on the user indication so that the system provide a recommendation of similar items based on the interests of users.

However, Bowman is directed to purchasing an already listed item. Present claim 1 includes the features of "receiving listing identification data from a seller", "searching a database of listing data using the listing identification data to locate a plurality of similar listings posted within a network-based commerce system", "receiving an indication from the seller selecting a selected listing from the plurality of similar listings", "generating a proposed listing to present to the seller, the proposed listing including listing data from the selected similar listing", "allowing the seller to modify the listing data of the proposed listing to create a listing." These features clearly relate to providing an offering for sale, which Bowman does not teach. According, Bowman does not cure the defects of Boyden as a reference.

Moreover, Bowman teaches away from the presently claimed invention as set forth in claim 1. Bowman is directed to purchasing items, whereas claim 1 recites similar listings, to create a listing, the listing, once posted, representing an offering of the good or service for sale. Bowman is directed to different subject matter and teaches away from the present invention.

The Office Action further provides a motivation to combine Bowman with Boyden, which states in part

> Selection of the product and the items similar to the product is allowed for purchase over the network to Boyden's system in order to allow a user select a particular similar item listing so that the service can retrieve another similar item lists based on the selected similar list and further to predict the interests of users based on the user indication so that the system provide a recommendation of similar items based on the interests of users. (Office Action Page 9)

This statement relies on searching for purchase, which may occur after the listing of claim 1 is created. Accordingly, assuming the motivation is valid, which applicant does not concede, it still does not teach or even suggest the claimed features of claim 1.

Applicant further notes that the Bowman and Boyden documents when combined do no more than they would in separate, sequential operation. That is, Boyden may create a vehicle for sale data. Then Bowman may then allow a purchaser to search Boyden's sale data. However, Bowman does not teach creating list data for offering or provide assistance to Boyden when Boyden is creating sales data.

Applicant further asserts that there is no adequate teaching, suggestion, or motivation to further modify Boyden and Bowman to arrive at the presently claimed invention.

In conclusion, Applicants reaffirm the position that Boyden and Bowman, when combined, do not teach or suggest all of the claim elements of independent claim 1 or render claim 1 obvious for at least the reasons stated above, and accordingly respectfully request that the rejection under 35 U.S.C. §103(a) be withdrawn.

Claims 2-7, 9-12, and 35-36 depend from claim 1 and are believed allowable therewith.

Independent claim 13 is believed to be allowable for at least similar reasons as stated above with regard to claim 1. Claims 14-19 and 21-22 depend from claim 13 and are believed allowable therewith.

Independent claim 23 is believed to be allowable for at least similar reasons as stated above with regard to claim 1. Claims 24-29 and 31-34 depend from claim 23 and are believed allowable therewith.

Claims 5-6, 17-18 and 27-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Boyden in view of Bowman and further in view of Erdelyi (U.S. Patent No. 6,631,522). Applicant respectfully traverses. Applicant asserts that these claims are allowable with their parent claims as Erdelyi does not cure the defects of Boyden and Bowman as references against these claims.

Claim 5 recites, in part, "automatically without human intervention checking attributes based on the listing data." Applicant can not find this feature in any of Boyden, Bowman or Erdelyi. Accordingly, claim 5 is allowable.

Claim 17 recites, in part, "selectively being automatically checked based on the listing data without human intervention." Applicant can not find this feature in any of Boyden, Bowman or Erdelyi. Accordingly, claim 17 is allowable.

Claim 27 recites, in part, "automatically without human intervention checks attributes based on the listing data." Applicant can not find this feature in any of Boyden, Bowman or Erdelyi. Accordingly, claim 27 is allowable.

Claims 10, 22 and 32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Boyden in view of Bowman and further in view of Maze et al. (U.S. Patent No. 6,216,264, hereinafter "Maze"). Applicant respectfully traverses and asserts that these claims are allowable with their parent claims as Maze does not cure the defects of Boyden and Bowman as references against these claims.

Claims 11, 12 and 33-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Boyden in view of Bowman and further in view of Ortega et al. (U.S. Patent No. 6,144,958, hereinafter "Ortega"). Applicant respectfully traverses and asserts that these claims are allowable with their parent claims as Ortega does not cure the defects of Boyden and Bowman as references against these claims.

Claim 36 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Boyden in view of Bowman and further in view of Bezos et al. (U.S. Patent No. 6,029,141, hereinafter "Bezos"). Applicant respectfully traverses and asserts that these claims are allowable with their parent claims as Bezos does not cure the defects of Boyden and Bowman as references against claim 36.

Claims 1-4, 7, 9, 13-16, 19, 21, 23-26, 29, 31, 35 and 37-38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Boyden in view of Smith (U.S. Patent No. 6,853,982). Applicant respectfully traverse.

Applicant points out that Smith, like Bowman cited above, does not teach or even suggest operation on selling side data to create a listing, once posted, representing an offering of the good or service *for sale*. Accordingly, claims 1-4, 7, 9, 13-16, 19, 21, 23-26, 29, 31, 35 and 37-38 are allowable for at least similar reasons as those stated above.

Claim 1 as amended recited in part "searching a database of listing data using the listing identification data to locate *a plurality of similar listings* posted within a network-based commerce system; receiving an indication from the seller selecting a *selected listing from the plurality of similar listings*; generating a proposed listing to present to the seller, *the proposed listing including listing data from the selected similar listing*; allowing the seller to modify the listing data of the proposed listing to create a listing; and posting the listing in a database of the network-based commerce system, the listing, once posted, representing an offering of the good or service *for sale*" (emphasis added). Applicant can not find these features in Boyden. Further the Office Action admits that Boyden does not explicitly teach the claimed limitation "a plurality of similar listings; from the plurality of similar listings; from the selected similar listing." Office Action Page 29.

Smith is directed monitoring user browsing activities on a merchants website to present further items for sale to a user. Smith does not teach or even suggest plurality of similar listing, the selected listing , seller selection or modification, with the listing representing an offering of the good or service for sale. The cited portions of Smith do not teach what is recited in claim 1 and missing from Boyden.

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Reconsideration and allowance of claim 1 and its dependent claims 2-4, 7, and 9 are requested.

Independent claim 13 is believed to be allowable for at least similar reasons as stated above with regard to claim 1. Claims 14-19 and 21-22 depend from claim 13 and are believed allowable therewith.

Independent claim 23 is believed to be allowable for at least similar reasons as stated above with regard to claim 1. Claims 24-29 and 31-34 depend from claim 23 and are believed allowable therewith.

Claims 5-6, 17-18 and 27-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Boyden in view of Smith and in further view of Erdelyi. Applicant respectfully traverses. Applicant asserts that these claims are allowable with their parent claims as Erdelyi does not cure the defects of Boyden and Smith as references against these claims.

Claim 5 recites, in part, "automatically without human intervention checking attributes based on the listing data." Applicant can not find this feature in any of Boyden, Smith, or Erdelyi. Accordingly, claim 5 is allowable.

Claim 17 recites, in part, "selectively being automatically checked based on the listing data without human intervention." Applicant can not find this feature in any of Boyden, Smith, or Erdelyi. Accordingly, claim 17 is allowable.

Claim 27 recites, in part, "automatically without human intervention checks attributes based on the listing data." Applicant can not find this feature in any of Boyden, Smith, or Erdelyi. Accordingly, claim 27 is allowable.

Claims 10, 22 and 32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Boyden in view of Smith and in further view of Maze. Applicant respectfully traverses and asserts that these claims are allowable with their parent claims as Maze does not cure the defects of Boyden and Smith as references against these claims.

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Claims 11-12 and 33-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Boyden in view of Smith and in further view of Ortega. Applicant respectfully traverses and asserts that these claims are allowable with their parent claims as Ortega does not cure the defects of Boyden and Smith as references against these claims.

Claim 36 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Boyden in view of Smith and in further view of Bezos. Applicant respectfully traverses and asserts that these claims are allowable with their parent claims as Bezos does not cure the defects of Boyden and Smith as references against claim 36.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney (Randy Canis) at 636-681-1324 or the undersigned to facilitate prosecution of this application. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this ___ day of June, 2008.

____CHRIS BARTH____   _____

Name   Signature